

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROCKWELL AUTOMATION
TECHNOLOGIES, INC.,

Plaintiff,

v.

SECURE CROSSING RESEARCH
& DEVELOPMENT INC.,

Defendant.

Case No. 2:12-cv-10274-GCS-MKM

Honorable George Caram Steeh

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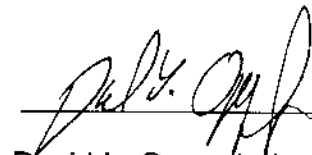
I, David L. Oppenhuizen, being first duly sworn, depose and say that:

1. I am of the age of majority and I am competent to testify.
2. If called upon, I would testify as to the same scope and manner as set forth herein.
3. I am an attorney of record in the above captioned matter as well as an attorney registered to practice before the United States Patent & Trademark Office.
4. I am the attorney of record for the third party requestor of the Request for Re-examination presently pending before the United States Patent & Trademark Office, identified under Control No. 90012312, which is the Request for Re-examination of the U.S. Patent No. 7,990,967 ('967), the patent-in-suit.
5. On August 3, 2012, I initiated a phone call to the United States Patent & Trademark Office to determine the status of the Request for Re-examination.
6. I undertook this phone call because the Patent Office has published notices that all Ex Parte Requests for Re-examination would be acted upon within two months of the submittal, and the two months had passed.
7. I, personally, talked to a Ms. Sharon Hoppe, who is listed as a contact person at the United States Patent & Trademark Office in connection with this matter.
8. Ms. Hoppe advised me that an Office Action would be forthcoming by August 30, 2012.
9. Evidently the Patent Office bypassed the notice of accepting the Request for Re-examination and has gone directly to issuing an Office Action in connection with the Request for Re-examination.

10. The import of the forthcoming Office Action is that a substantial new question of patentability has been raised in the Request for Re-examination with respect to at least some of the claims, if not all of the claims of the patent-in-suit.
11. Based upon the United States Patent & Trademark Office statistics published on June 30, 2012, in 78% of all Ex Parte Requests for Re-examination, at least some of the claims are amended and/or ultimately canceled.
12. Because Rockwell has contended that 37 claims of the '967 patent are allegedly infringed by Secure Crossing, it is reasonable to conclude that at least some of those claims, if not all, will be the subject matter of the Office Action.

Further affiant sayeth naught.

Dated: 8/7/2012



David L. Oppenhuizen
Counsel for Secure Crossing
Research and Development, Inc.

Subscribed and sworn to before me
on this 7th Day of August, 2012.

